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Customer No.: 26308

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Aboul-Hosn et al.

Docket No.: 9261.16828

Serial No.: 09/889,442

Examiner: P. Bianco

Filed: 9 December 2002

Group Art Unit: 3762

Title: Integrated Pumps and Cannula Systems and Related Methods

REQUEST FOR REFUND OF FEE SUBMITTED FOR PETITION FOR
AN UNINTENTIONALLY DELAYED BENEFIT CLAIM
PURSUANT TO 37 C.F.R. §1.78(a)(3)

Commissioner for Patents
Office of Finance
Refund Section
P.O. Box 1450
Alexandria, VA 22313-1450



26308

PATENT TRADEMARK OFFICE

Dear Sir:

Applicant submitted a Petition for an Unintentionally Delayed Benefit Claim Pursuant to 37 C.F.R. §1.78(a)(3) along with requisite fee of \$1330.00 under C.F.R. §1.17(t) on 5 August 2004.

The petition was dismissed in a Decision on Petition mailed 28 October 2004. Applicant submitted a renewed Petition for an Unintentionally Delayed Benefit Claim Pursuant to 37 C.F.R. §1.78(a)(3) on 9 November 2004.

The renewed petition was dismissed as moot in a Decision on Petition mailed 13 January 2005, a copy of which is attached (Attachment A). In view of the need for the petition being moot, the \$1330.00 fee submitted on 5 August 2004 was unnecessary.

Applicant hereby requests a complete refund of the \$1330 petition fee submitted on 5 August 2004.

Respectfully Submitted,

By Patricia A. Limbach
Patricia A. Limbach, Registration No. 50,295

RYAN KROMHOLZ & MANION, S.C.
Post Office Box 26618
Milwaukee, Wisconsin 53226
(262) 783 - 1300
7 March 2005
Customer No.: 26308

A Mod/100.00 PCT 12/15/007 Request Refund of Fee for Petition Under 37 C.F.R. § 1.78(a)(3)

Enclosure: Attachment A



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAN 18 2005

DANIEL D. RYAN
RYAN KROMHOLZ & MANION
P.O. BOX 26618
MILWAUKEE, WI 53226

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JAN 13 2005

In re Application of
Walid N. Aboul-Hosn et al
Application No. 09/889,442
Filed: December 9, 2002
Attorney Docket No. 9261-16828-PCTUS

:
: OFFICE OF PETITIONS
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on the renewed petition filed November 12, 2004, under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED** as moot for the reasons stated below.

37 CFR 1.78(a)(2)(ii)¹ indicates that the time periods set forth therein do not apply if the later-filed application is: (1) an application for a design patent; (2) an application filed under 35 U.S.C. § 111(a) before November 29, 2000; or (3) a nonprovisional application which entered the national stage after compliance with 35 U.S.C. § 371 from an international application filed under 35 U.S.C. § 365 before November 29, 2000.

Since the instant nonprovisional application is the national stage entry of an international application filed prior to November 29, 2000, the provisions of 37 CFR 1.78(a)(3) for acceptance of a later claim for priority do not apply to the subject nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

In view of the above, the \$1,330 fee submitted for the petition under 37 CFR 1.78(a)(3) is unnecessary. Accordingly, petitioner may request a refund of the \$1,330 petition fee submitted by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

¹37 CFR 1.78(a)(2) was amended to place its provisions in separate paragraphs (a)(2)(i) through (a)(iv) for clarity. See **Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications**, 66 FR 67087 (December 28, 2001); 1254 Off. Gaz. Pat. Office, 121 (January 22, 2002) (final rule).

Reasonal
Docketed
DUE: 3/13/05

CLERK: *gg*

Attachment A

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Application No. 09/889,442

-2-

The application is being referred to Technology Center Art Unit 3762.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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CERTIFICATE OF FIRST CLASS MAIL

2005 MAR 11 PM 4:03

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, with sufficient postage, on the date indicated below in an envelope addressed as follows: Commissioner for Patents, Office of Finance, Refund Section, PO Box 1450, Alexandria, VA 22313-1450

By: Linda S. Wenzel

Dated: 7 March 2005

Linda S. Wenzel

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Applicant: Aboul-Hosn et al.

Docket No.: 9261.16828-PCT US

Serial No.: 09/889,442

Examiner: P. Bianco

Filed: 9 December 2002

Group Art Unit: 3762

Title: Integrated Pump and Cannula Systems and Related Methods



PETITION FOR AN UNINTENTIONALLY DELAYED BENEFIT CLAIM
PURSUANT TO 37 C.F.R. §1.78(a)(3)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



Dear Sir:

Applicant requests to amend the benefit claim under 35 U.S.C. §120 of the above-noted application as follows in marked-up form:

This application claims the benefit under Title 35, United States Code, Section 119(e) of United States Provisional Patent App. Ser. No. 60/115,786, filed January 13, 1999, entitled "Integrated Pump and Cannula Assembly." This application is also a continuation-in-part of co-pending United States Patent App. Ser. No. 09/462,656, filed January 14, 2000, entitled "Transport Pump and Organ Stabilization Apparatus Including Related Methods," which is a continuation-in-part of United States Patent App. Ser. No. 08/933,566, filed September 19, 1997, now U.S. Patent No. 6,083,260.

The benefit claim, amended as proposed, has been submitted in Applicant's Amendment A (filed 5 August 2004), a copy of which is attached.

08/10/2004 AWONDAF1 00000034 09889442

01 FC:1454 1330.00 OP

Adjustment date: 04/27/2005 SDIRETA1

08/10/2004 AWONDAF1 00000034 09889442

01 FC:1454 -1330.00 OP

Refund Ref: SDIRETA1 0000144336 *NE*

CHECK Refund Total: \$1330.00